

**In re: OPC LIQUIDATION CORPORATION, formerly d/b/a OREGON
POTATO COMPANY.**

PACA Docket No. D-02-0007.

Decision Without Hearing by Reason of Default.

Filed June 20, 2002.

PACA – Default – Payment, failure to make full, prompt.

Charles E. Spicknall, for Complainant.

Respondent, Pro se.

Decision issued by Jill S. Clifton, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) hereinafter referred to as the “Act,” instituted by a complaint filed on February 6, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The complaint alleges that during the period of March 1999 through June 2000, Respondent OPC Liquidation Corporation, formerly known as the Oregon Potato Company, (hereinafter the “Respondent”), failed to make full payment promptly to 40 sellers of the agreed purchase prices in the total amount of \$6,792,743.62 for 2,869 lots of perishable agricultural commodities, which it purchased, received and accepted and in interstate and foreign commerce.

A copy of the complaint was served on the Respondent by certified mail on February 12, 2002, which complaint has not been answered. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent, OPC Liquidation Corporation, formerly known as Oregon Potato Company, is a corporation organized and existing under the laws of the State of Oregon, also formerly doing business as Washington Potato Company. Oregon Potato Company changed the name of the company to OPC Liquidation Corporation on January 8, 2001, while in bankruptcy, in order to facilitate the sale of the company’s assets, including the Oregon Potato Company name and Washington Potato Company trade name. OPC Liquidation Corporation and the

former Oregon Potato Company's business address is East Columbia Avenue, Boardman, Oregon 97818. The mailing address is P.O. Box 169, Boardman, Oregon 97818.

2. At all times material herein, OPC Liquidation Corporation and the former Oregon Potato Company were licensed under the provisions of the PACA. The License and Program Review Branch, PACA Branch, Fruit and Vegetable Division, were informed when the company changed names and permitted OPC Liquidation Corporation to retain PACA license number 810641, which had been issued to the former Oregon Potato Company on March 4, 1981. Respondent's license was terminated on March 4, 2001, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499(a)), when OPC Liquidation Corporation failed to renew it.

3. During the period March 1999 through June 2000, Respondent failed to make full payment promptly to 40 sellers of the agreed purchase prices in the total amount of \$6,792,743.62 for 2,869 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate and foreign commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the 2,869 transactions described above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances set forth above, shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceeding within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145). [Note: This Decision and Order became final July 30, 2002. - Editor]
